



SO ORDERED.

SIGNED this 26th day of July, 2017.

Dale L. Somers

Dale L. Somers
United States Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS
KANSAS CITY DIVISION

IN RE:)	
)	
LARKIN EXCAVATING, INC.)	Case No.17-20890-11-dls
Debtor.)	Chapter 11
_____)	(Related Doc. 43 and Doc. 67))

**SECOND AGREED ORDER EXTENDING INTERIM ORDER
AUTHORIZING USE OF CASH COLLATERAL AND CONTINUING
THE FINAL HEARING PURSUANT TO BANKRUPTCY RULE 4001(b)**

This Second Agreed Interim Order, having been submitted by counsel for the Debtor, the Internal Revenue Service, Commercial Credit Group, Inc. and Central Bank of the Midwest. is entered by the Court to extend the Interim Order authorizing use of cash collateral (Doc 43), which was filed on June 5, 2017, and extended by Order dated June 25, 2017 (Doc. 67).

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Debtor shall be and hereby is granted the continued use of Cash Collateral on an interim basis and pursuant to the Interim Order.

IT IS FURTHER ORDERED that Debtor's interim use of Cash Collateral shall continue to be conditioned on the following:

1. As adequate protection for the use of their Cash Collateral, Bank, CCG and the IRS shall be granted replacement liens, in the same priority as existed prepetition, on Debtor's post-petition inventory, accounts receivable and proceeds, to the extent that use of Cash Collateral results in any decrease in the aggregate value of the Cash Collateral on the Petition Date. As additional adequate protection for the use of cash collateral, Debtor shall, on the 30th day of each month, pay the IRS \$10,000 per month and the Bank \$7,810 per month in accordance with the budget attached as Exhibit A to the first Agreed Order which extended the Interim Order (Doc. 67).

2. The continued adequate protection granted in this Agreed Order Extending the Interim Order is without prejudice to either Bank, CCG or the IRS seeking further and other adequate protection at the Final Hearing in this case and is further entered without prejudice to the pending Motion of University National Bank.

IT IS FURTHER ORDERED that this Second Agreed Interim Order Extending the Interim Order shall expire unless extended by further order of the Court or by express written consent of Bank, CCG and the IRS, upon entry of a final Order approving use of Cash Collateral.

IT IS FURTHER ORDERED that the provisions of this Second Agreed Interim Order Extending the Interim Order shall be binding upon and inure to the benefit of Bank, CCG, the IRS and Debtor, and their respective successors and assignees (including without limitation any Chapter 11 or Chapter 7 trustee, examiner or other fiduciary hereafter appointed for Debtor or with respect to any of Debtor's property).

IT IS FURTHER ORDERED that this Second Agreed Interim Order Extending the Interim Order shall become effective and enforceable upon approval and entry as an Order of the

Bankruptcy Court. If any provision of this Second Agreed Interim Order Extending the Interim Order is modified, vacated or stayed by a subsequent Order of the Court, such modification, vacation or stay shall not affect the validity of any obligation or liability incurred pursuant to this Second Agreed Interim Order Extending the Interim Order and prior to the effective date of such modification, vacation or stay.

IT IS FURTHER ORDERED that a final hearing on Debtor's Motion for use of cash collateral shall be conducted on **August 11, 2017, at 1:30 p.m.** ("**the Final Cash Collateral Hearing**").

IT IS FURTHER ORDERED that any and all objections by Bank are reserved for the Final Cash Collateral Hearing.

IT IS FURTHER ORDERED that Debtor shall, within two (2) business days after entry of this Second Agreed Interim Order, provide notice of entry of this Second Agreed Interim Order and mail copies to the twenty (20) largest unsecured creditors and any party who has requested notice and does not receive such notice electronically. Said Notice shall state that objections to the relief granted by this Second Agreed Interim Order shall be in writing and shall be filed with the United States Bankruptcy Clerk for the District of Kansas on or before **August 8, 2017**, ("**the Objection Deadline**"). Any objections which are not filed by the Objection Deadline shall be deemed waived. Any party who has filed an objection but fails to appear at the hearing shall be deemed to have withdrawn its objection.

IT IS SO ORDERED.

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In the United States Bankruptcy Court
For the District of Kansas, Kansas City Division
In re Larkin Excavating, Inc.
Case No. 17-20890-11-dls
AGREED ORDER EXTENDING INTERIM ORDER FOR USE OF CASH COLLATERAL
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